

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HELEN A. RUNGE,	:	
Plaintiff	:	
	:	No. 05-10849-RGS
v.	:	(Judge Stearns)
	:	
WALTER J. KELLY, et al.	:	CIVIL ACTION
Defendants	:	JURY TRIAL DEMANDED

MOTION FOR PROTECTIVE ORDER

AND NOW, COMES, Plaintiff, Helen A. Runge ("Plaintiff"), by and through counsel, and motions for a protective order against discovery sought by Defendant Walter J. Kelly ("Defendant Kelly") and states the following:

1. On April 27, 2005, Plaintiff filed her initial Complaint with this Honorable Court.
2. Plaintiff filed an Amended Complaint on August 7, 2006 and a Second Amended Complaint on January 8, 2007, as permitted by the Court.
3. The parties were required by Discovery Schedule dated April 4, 2006 to conclude fact discovery by December 22, 2006.
4. On January 11, 2007, Defendant Kelly forwarded eight (8) subpoenas regarding different health care providers and corresponding notices of deposition to the

Polk County Sheriff in North Carolina for service. *See* subpoenas and notices of deposition attached as Exhibit A.

5. The subpoenas and notices for deposition are issued from the United States District Court for the Western District of North Carolina.

6. The subpoenas and notices of deposition issued on January 11, 2007 violate the Court's Discovery Schedule.

7. To date, Defendant Kelly has not requested or been granted an enlargement of time for the fact discovery period set forth in the Discovery Schedule or requested a modification of the Discovery Schedule.

8. Defendant Kelly has not provided the necessary notices under the Health Insurance Portability and Accountability Act for the eight (8) providers that were issued subpoenas.

9. Defendant Kelly did not ask Plaintiff whether she agreed to the service of these subpoenas and notices of deposition outside of the fact discovery time period; Plaintiff objects to the issuance of these discovery requests.

10. Not only are the subpoenas and notices of deposition outside of the time period for fact discovery, but they require each deponent, none of whom is a party, to travel to Boston, Massachusetts for deposition or to produce documents to Defendant Kelly's counsel in Boston, Massachusetts, which is more than 100 miles from his or her place of employment and not within the district from which the requests are issued.

11. Compliance with the subpoenas and notices of deposition will subject the deponents to undue burden and expense in complying with the requests.

12. The subpoenas are not in the proper form because they do not incorporate subsections (c) and (d) of FRCP 45 as required by that rule.

13. Plaintiff now requests that this Honorable Court order that the discovery not be had because the improperly formatted discovery requests are outside of the time for fact discovery as set forth by the Discovery Schedule and will cause undue burden and expense to the deponents.

14. In support of the instant Motion, Plaintiff incorporates her Memorandum of Reasons In Support of the Motion for Protective Order.

WHEREFORE, Plaintiff, Helen A. Runge, respectfully requests that this Honorable Court grant Plaintiff's Motion for Protective Order.

Respectfully submitted,

LATSHA DAVIS YOHE & MCKENNA, P.C.

Dated: January 26, 2007

By /s/ Glenn R. Davis

Glenn R. Davis
1700 Bent Creek Boulevard, Suite 140
Mechanicsburg, PA 17050
(717) 620-2424
gdavis@ldylaw.com
Pro Hac Vice

Blake J. Godbout, BBO #196380
BLAKE J. GODBOUT & ASSOCIATES
33 Broad Street, 11th Floor
Boston, MA 02109
(617) 523-6677

LOCAL RULE 7.1 CERTIFICATION

I, Glenn R. Davis, counsel for Plaintiff, Helen A. Runge, certify that we have contacted counsel for Defendant Walter J. Kelly, Kerry L. Bloomingdale, M.D. and

Sunbridge Nursing and Rehabilitation Center regarding Plaintiff Helen A. Runge's Motion for Protective Order. Counsel for Defendants Walter J. Kelly and Kerry L. Bloomingdale do not concur with the presentation of this motion. The remaining party has not yet provided its position, whether it be concurrence or nonconcurrence with the presentation of this motion.

LOCAL RULE 37.1 CERTIFICATION

I, Glenn R. Davis, counsel for Plaintiff, Helen A. Runge, certify that we have conferred with counsel for Defendant Walter J. Kelly, the defendant involved in the discovery dispute, in a good faith attempt to narrow the areas of dispute and accordingly have complied with the provisions of Local Rule 37.1.

Dated: January 26, 2007

/s/ Glenn R. Davis

Glenn R. Davis

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document was served upon the attorney of record for each party by electronic submission.

James S. Hamrock, Jr.
Hamrock & Tocci
101 Main Street, 18th Floor
Cambridge, MA 02142
jhamrock@htclaw.com

Michele Carlucci
George S. Rockas
Wilson Elser Moskowitz Edelman & Dicker LLP
155 Federal Street
Boston, MA 02110
michele.carlucci@wilsonelser.com
george.rockas@wilsonelser.com

Michael Williams
Lawson & Weitzen, LLP
88 Black Falcon Avenue, Suite 145
Boston, MA 02210-1736
mwilliams@lawson-weitzen.com

Dated: January 26, 2007

/s/ Glenn R. Davis

Glenn R. Davis

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

155 Federal Street, Boston, Massachusetts 02110-1727

Tel: (617) 422-5300 Fax: (617) 423-6917

*Albany • Baltimore • Boston • Chicago • Dallas • Garden City • Houston • Las Vegas • London • Los Angeles • McLean
Miami • Newark • New York • Orlando • Philadelphia • San Diego • San Francisco • Stamford • Washington, DC • White Plains
Affiliates: Berlin • Cologne • Frankfurt • Munich • Paris*

www.wilsonelser.com

Michele Carlucci
Writer's Ext.: 5416
Michele.Carlucci@WilsonElser.com

January 11, 2007

Deputy Sheriff's Office
Polk County Sheriff
105 Ward Street
Columbus, NC 28722

Re: Helen Runge v. Walter J. Kelly, et al.
No. 05-10849RGS - Our File No.: 00894.00237

Dear Sheriff:


Enclosed for service please find eight (8) Keeper of Record subpoenas, along with their corresponding deposition notice to be served upon the following:

1. Robert M. Palmer, M.D., Tryon Medical Group, P.A., 25 Shields Drive, Tryon, NC 28782;
2. White Oak Manor (Benson Hall Assisted Living Facility), 70 Oak Street, Tryon, NC 28782;
3. White Oak Manor (Nursing Facility), 70 Oak Street, Tryon, NC;
4. LaurelWoods Assisted Living, 1062 & 1064 W. Mills Street, Columbus, NC 28722;
5. Dr. George Kim, 2536 Lynn Road, Suite B, Tryon, NC 28782;
6. Dr. Peter Nidenbach, Laurelllyn Medical Group, 37 Wilderness Road, Tryon, NC 28782;
7. St. Luke's Hospital, 101 Hospital Drive, Columbus, NC 28722; and
8. St. Luke's Skilled Nursing Facility, Dr. George Kim, 101 Hospital Drive, Columbus, NC 28722.

Page 2

Regarding our recent telephone conversation, I understand you are holding the check we sent you previously for pre-payment regarding the above subpoenas. Thank you for your attention to this matter. Please feel free to call me with any questions.

Very truly yours,


Michele Carlucci

MC/sap
Enclosures

cc: Glenn R. Davis, Esq.
James Hamrock, Esq.
Blake Godbout, Esq.
Robert J. Roughsedge, Esq.

DEPOSITION SUBPOENA: DUCES TECUM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

**CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS**

HELEN RUNGE, Plaintiff v. WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, Defendants
--

TO: KEEPER OF THE RECORDS
St. Luke's Skilled Nursing Facility
101 Hospital Drive
Columbus, NC 28722

GREETINGS:

YOU ARE HEREBY COMMANDED in the name of the United States District Court, Western District of North Carolina in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure to appear and testify on behalf of defendants before a Notary Public of the Commonwealth, on **Wednesday, January 31, 2007 at 5:00 p.m.** at the offices of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 Federal Street, Boston, MA 02110 and to testify as to your knowledge, at the taking of the deposition in the above-entitled action. The oral examination will continue from day to day until completed. And you are further required to bring with you the following:

SEE NOTICE OF TAKING DEPOSITION ATTACHED HERETO.

IN LIEU OF ATTENDING YOU MAY SEND COPIES OF RECORDS TO **MICHELE CARLUCCI**, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 FEDERAL STREET, BOSTON, MA 02110.

Records may be mailed in lieu of your personal appearance provided they are accompanied by: An executed certification that all records requested have been produced (see form attached).

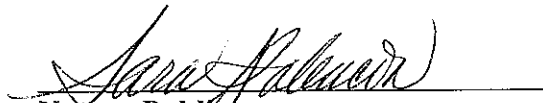
If documents are produced in this fashion, kindly return a copy of the subpoena with a cover letter, executed form(s) and document(s) produced. If you have no records, kindly write to Michele Carlucci confirming same.

Hereof fail not as you will answer your default under the pains and penalties under the law as provided.

WALTER J. KELLY
BY HIS ATTORNEY



Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public.
My Commission Expires: 8/28/09

CERTIFICATION

The undersigned does depose and say under the penalties of perjury that I am an authorized custodian of records for _____ and that the enclosed _____ pages represent all documents called for in the attached subpoena, no records having been withheld. All such records were kept in the regular course of business.

Signed under the pains and penalties of perjury this ____ day of _____, 2007.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE,

Plaintiff

v.

WALTER J. KELLY,
KERRY L. BLOOMINGDALE, M.D., and
SUNBRIDGE NURSING AND
REHABILITATION CENTER,

Defendants

NOTICE OF TAKING DEPOSITION

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Columbus, NC 28722

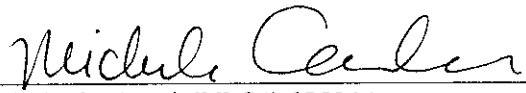
Please take notice that on **Wednesday, January 31, 2007 at 5:00 p.m.** at the offices of Michele Carlucci, Esquire, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, 155 Federal Street, Boston, Massachusetts, Walter J. Kelly, in this action by his attorney will take the deposition upon oral examination of the **Keeper of Records of St. Luke's Skilled Nursing Facility**, pursuant to the applicable provisions pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before a Notary Public in and for the Commonwealth of Massachusetts or before some other officer authorized to administer oaths.

You are further required to bring with you the documents listed on Schedule A attached hereto.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully Submitted,

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300

CERTIFICATE OF SERVICE

I, Michele Carlucci, certify that on January 11, 2007, I have served a copy of the within document by first class mail, postage prepaid, to the following:

James S. Hamrock, Esq.
Hamrock & Tocci
101 Main Street, 18th Floor
Cambridge, MA 02142

Blake J. Godbout, Esq.
Blake J. Godbout & Associates
33 Broad Street, 11th Floor
Boston, MA 02109

Glen R. Davis, Esq.
Latsha Davis Yohe & McKenna, P.C.
1700 Bent Creek Boulevard, Suite 140
Mechanicsburg, PA 17050

Robert J. Roughsedge, Esq.
Michael Williams, Esq.
Lawson & Weitzen, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02210-2414


Michele Carlucci

SCHEDULE A

Any and all medical records, reports, x-rays, films and billings relating in any way to physical, medical or mental condition, illness, disabilities and treatment of Helen Runge, 5 Stirrup Downs, Columbus, NC 28722, , date of birth: 8/03/15.

DEPOSITION SUBPOENA: DUCES TECUM

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

**CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS**

HELEN RUNGE, <div style="text-align: right;">Plaintiff</div> <div style="text-align: center;">v.</div> WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, <div style="text-align: right;">Defendants</div>

TO: KEEPER OF THE RECORDS
St. Luke's Hospital
101 Hospital Drive
Columbus, NC 28722

GREETINGS:

YOU ARE HEREBY COMMANDED in the name of the United States District Court, Western District of North Carolina in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure to appear and testify on behalf of defendants before a Notary Public of the Commonwealth, on **Wednesday, January 31, 2007 at 4:00 p.m.** at the offices of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 Federal Street, Boston, MA 02110 and to testify as to your knowledge, at the taking of the deposition in the above-entitled action. The oral examination will continue from day to day until completed. And you are further required to bring with you the following:

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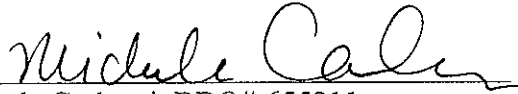
IN LIEU OF ATTENDING YOU MAY SEND COPIES OF RECORDS TO **MICHELE CARLUCCI**, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 FEDERAL STREET, BOSTON, MA 02110.

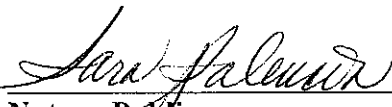
Records may be mailed in lieu of your personal appearance provided they are accompanied by: An executed certification that all records requested have been produced (see form attached).

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Hereof fail not as you will answer your default under the pains and penalties under the law as provided.

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public:
My Commission Expires: 8/28/09

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Signed under the pains and penalties of perjury this ____ day of _____, 2007.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE,

Plaintiff

v.

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KERRY L. BLOOMINGDALE, M.D., and
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Defendants

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You are further required to bring with you the documents listed on Schedule A attached hereto.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully Submitted,

WALTER J. KELLY
BY HIS ATTORNEY



Michele Carlucci, BBO# 655211
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Robert J. Roughsedge, Esq.
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Michele Carlucci

SCHEDULE A

Any and all medical records, reports, x-rays, films and billings relating in any way to physical, medical or mental condition, illness, disabilities and treatment of Helen Runge, 5 Stirrup Downs, Columbus, NC 28722, , date of birth: 8/03/15.

DEPOSITION SUBPOENA: DUCES TECUM

**UNITED STATES DISTRICT COURT
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TO: KEEPER OF THE RECORDS
Dr. George Kim
2536 Lynn Road, Suite B
Tryon, NC 28782

GREETINGS:

YOU ARE HEREBY COMMANDED in the name of the United States District Court, Western District of North Carolina in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure to appear and testify on behalf of defendants before a Notary Public of the Commonwealth, on **Wednesday, January 31, 2007 at 2:00 p.m.** at the offices of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 Federal Street, Boston, MA 02110 and to testify as to your knowledge, at the taking of the deposition in the above-entitled action. The oral examination will continue from day to day until completed. And you are further required to bring with you the following:

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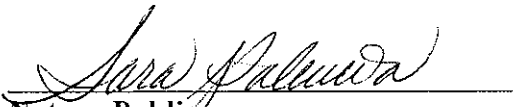
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Hereof fail not as you will answer your default under the pains and penalties under the law as provided.

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public
My Commission Expires: 8/28/07

CERTIFICATION

The undersigned does depose and say under the penalties of perjury that I am an authorized custodian of records for _____ and that the enclosed _____ pages represent all documents called for in the attached subpoena, no records having been withheld. All such records were kept in the regular course of business.

Signed under the pains and penalties of perjury this ____ day of _____, 2007.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE,

Plaintiff

v.

WALTER J. KELLY,
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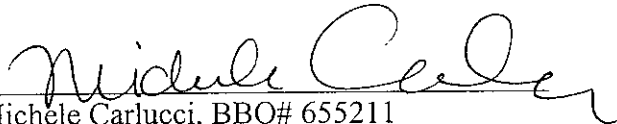
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WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
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155 Federal Street
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Michele Carlucci

SCHEDULE A

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DEPOSITION SUBPOENA: DUCES TECUM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

**CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS**

HELEN RUNGE, Plaintiff v. WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, Defendants
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Dr. Peter Nidenbach
Laurellyn Medical Group
37 Wilderness Road
Tryon, NC 28782

GREETINGS:

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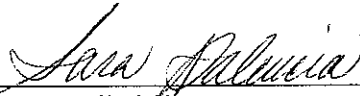
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WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSE, MOSKOWITZ, EDELMAN &
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155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public:
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Signed under the pains and penalties of perjury this ____ day of _____, 2007.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE,

Plaintiff

v.

WALTER J. KELLY,
KERRY L. BLOOMINGDALE, M.D., and
SUNBRIDGE NURSING AND
REHABILITATION CENTER,

Defendants

NOTICE OF TAKING DEPOSITION

TO: KEEPER OF THE RECORDS
Dr. Peter Nidenbach
Laurellyn Medical Group
37 Wilderness Road
Tryon, NC 28782

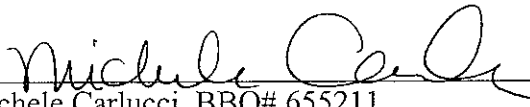
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Respectfully Submitted,

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300

CERTIFICATE OF SERVICE

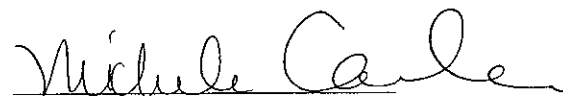
I, Michele Carlucci, certify that on January 11, 2007, I have served a copy of the within document by first class mail, postage prepaid, to the following:

James S. Hamrock, Esq.
Hamrock & Tocci
101 Main Street, 18th Floor
Cambridge, MA 02142

Blake J. Godbout, Esq.
Blake J. Godbout & Associates
33 Broad Street, 11th Floor
Boston, MA 02109

Glen R. Davis, Esq.
Latsha Davis Yohe & McKenna, P.C.
1700 Bent Creek Boulevard, Suite 140
Mechanicsburg, PA 17050

Robert J. Roughsedge, Esq.
Michael Williams, Esq.
Lawson & Weitzen, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02210-2414


Michele Carlucci

SCHEDULE A

Any and all medical records, reports, x-rays, films and billings relating in any way to physical, medical or mental condition, illness, disabilities and treatment of Helen Runge, 5 Stirrup Downs, Columbus, NC 28722, , date of birth: 8/03/15.

DEPOSITION SUBPOENA: DUCES TECUM

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

**CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS**

HELEN RUNGE, Plaintiff v. WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, Defendants
--

TO: KEEPER OF THE RECORDS
LaurelWoods Assisted Living
1062 & 1064 W. Mills Street
Columbus, NC 28722

GREETINGS:

YOU ARE HEREBY COMMANDED in the name of the United States District Court, Western District of North Carolina in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure to appear and testify on behalf of defendants before a Notary Public of the Commonwealth, on **Wednesday, January 31, 2007 at 1:00 p.m.** at the offices of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 Federal Street, Boston, MA 02110 and to testify as to your knowledge, at the taking of the deposition in the above-entitled action. The oral examination will continue from day to day until completed. And you are further required to bring with you the following:

SEE NOTICE OF TAKING DEPOSITION ATTACHED HERETO.

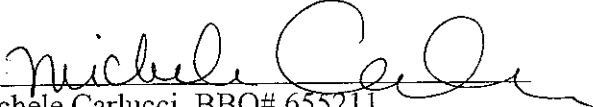
IN LIEU OF ATTENDING YOU MAY SEND COPIES OF RECORDS TO **MICHELE CARLUCCI**, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 FEDERAL STREET, BOSTON, MA 02110.

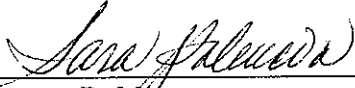
Records may be mailed in lieu of your personal appearance provided they are accompanied by: An executed certification that all records requested have been produced (see form attached).

If documents are produced in this fashion, kindly return a copy of the subpoena with a cover letter, executed form(s) and document(s) produced. If you have no records, kindly write to Michele Carlucci confirming same.

Hereof fail not as you will answer your default under the pains and penalties under the law as provided.

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public:
My Commission Expires: 8/28/09

CERTIFICATION

The undersigned does depose and say under the penalties of perjury that I am an authorized custodian of records for _____ and that the enclosed _____ pages represent all documents called for in the attached subpoena, no records having been withheld. All such records were kept in the regular course of business.

Signed under the pains and penalties of perjury this ____ day of _____, 2007.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE,

Plaintiff

v.

WALTER J. KELLY,
KERRY L. BLOOMINGDALE, M.D., and
SUNBRIDGE NURSING AND
REHABILITATION CENTER,

Defendants

NOTICE OF TAKING DEPOSITION

TO: KEEPER OF THE RECORDS
LaurelWoods Assisted Living
1062 & 1064 W. Mills Street
Columbus, NC 28722


Please take notice that on **Wednesday, January 31, 2007 at 1:00 p.m.** at the offices of Michele Carlucci, Esquire, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, 155 Federal Street, Boston, Massachusetts, Walter J. Kelly, in this action by his attorney will take the deposition upon oral examination of the **Keeper of Records of LaurelWoods Assisted Living**, pursuant to the applicable provisions pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before a Notary Public in and for the Commonwealth of Massachusetts or before some other officer authorized to administer oaths.

You are further required to bring with you the documents listed on Schedule A attached hereto.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully Submitted,

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300

CERTIFICATE OF SERVICE


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Robert J. Roughsedge, Esq.
Michael Williams, Esq.
Lawson & Weitzen, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02210-2414


Michele Carlucci

SCHEDULE A

Any and all medical records, reports, x-rays, films and billings relating in any way to physical, medical or mental condition, illness, disabilities and treatment of Helen Runge, 5 Stirrup Downs, Columbus, NC 28722, , date of birth: 8/03/15.

DEPOSITION SUBPOENA: DUCES TECUM

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

**CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS**

HELEN RUNGE, <div style="text-align: right;">Plaintiff</div> <div style="text-align: center;">v.</div> WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, <div style="text-align: right;">Defendants</div>

TO: KEEPER OF THE RECORDS
White Oak Manor
(Nursing Facility)
70 Oak Street
Tryon, NC 28782

GREETINGS:

YOU ARE HEREBY COMMANDED in the name of the United States District Court, Western District of North Carolina in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure to appear and testify on behalf of defendants before a Notary Public of the Commonwealth, on **Wednesday, January 31, 2007 at 11:30 a.m.** at the offices of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 Federal Street, Boston, MA 02110 and to testify as to your knowledge, at the taking of the deposition in the above-entitled action. The oral examination will continue from day to day until completed. And you are further required to bring with you the following: SEE NOTICE OF TAKING DEPOSITION ATTACHED HERETO.


IN LIEU OF ATTENDING YOU MAY SEND COPIES OF RECORDS TO **MICHELE CARLUCCI**, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 FEDERAL STREET, BOSTON, MA 02110.


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If documents are produced in this fashion, kindly return a copy of the subpoena with a cover letter, executed form(s) and document(s) produced. If you have no records, kindly write to Michele Carlucci confirming same.

Hereof fail not as you will answer your default under the pains and penalties under the law as provided.

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public:
My Commission Expires: 8/28/09

CERTIFICATION

The undersigned does depose and say under the penalties of perjury that I am an authorized custodian of records for _____ and that the enclosed _____ pages represent all documents called for in the attached subpoena, no records having been withheld. All such records were kept in the regular course of business.

Signed under the pains and penalties of perjury this ____ day of _____, 2007.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE, <div style="text-align: right;">Plaintiff</div> <div style="text-align: center;">v.</div> WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, <div style="text-align: right;">Defendants</div>

NOTICE OF TAKING DEPOSITION

TO: KEEPER OF THE RECORDS
White Oak Manor
(Nursing Facility)
70 Oak Street
Tryon, NC 28782


Please take notice that on **Wednesday, January 31, 2007 at 11:30 a.m.** at the offices of Michele Carlucci, Esquire, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, 155 Federal Street, Boston, Massachusetts, Walter J. Kelly, in this action by his attorney will take the deposition upon oral examination of the **Keeper of Records of White Oak Manor (Nursing Facility)**, pursuant to the applicable provisions pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before a Notary Public in and for the Commonwealth of Massachusetts or before some other officer authorized to administer oaths.

You are further required to bring with you the documents listed on Schedule A attached hereto.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully Submitted,

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300

CERTIFICATE OF SERVICE

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Robert J. Roughsedge, Esq.
Michael Williams, Esq.
Lawson & Weitzen, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02210-2414


Michele Carlucci

SCHEDULE A

Any and all medical records, reports, x-rays, films and billings relating in any way to physical, medical or mental condition, illness, disabilities and treatment of Helen Runge, 5 Stirrup Downs, Columbus, NC 28722, , date of birth: 8/03/15.

DEPOSITION SUBPOENA: DUCES TECUM

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

**CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS**

HELEN RUNGE, Plaintiff v. WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, Defendants
--

TO: KEEPER OF THE RECORDS
White Oak Manor
(Benson Hall Assisted Living Facility)
70 Oak Street
Tryon, NC 28782

GREETINGS:

YOU ARE HEREBY COMMANDED in the name of the United States District Court, Western District of North Carolina in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure to appear and testify on behalf of defendants before a Notary Public of the Commonwealth, on **Wednesday, January 31, 2007 at 11:00 a.m.** at the offices of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 Federal Street, Boston, MA 02110 and to testify as to your knowledge, at the taking of the deposition in the above-entitled action. The oral examination will continue from day to day until completed. And you are further required to bring with you the following: SEE NOTICE OF TAKING DEPOSITION ATTACHED HERETO.


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Hereof fail not as you will answer your default under the pains and penalties under the law as provided.

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSE, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public:
My Commission Expires: 8/28/09

CERTIFICATION

The undersigned does depose and say under the penalties of perjury that I am an authorized custodian of records for _____ and that the enclosed _____ pages represent all documents called for in the attached subpoena, no records having been withheld. All such records were kept in the regular course of business.

Signed under the pains and penalties of perjury this ____ day of _____, 2007.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE, Plaintiff v. WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, Defendants
--

NOTICE OF TAKING DEPOSITION

TO: KEEPER OF THE RECORDS
White Oak Manor
(Benson Hall Assisted Living Facility)
70 Oak Street
Tryon, NC 28782

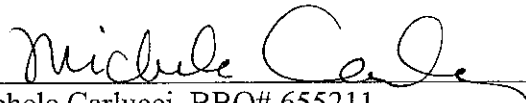
Please take notice that on **Wednesday, January 31, 2007 at 11:00 a.m.** at the offices of Michele Carlucci, Esquire, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, 155 Federal Street, Boston, Massachusetts, Walter J. Kelly, in this action by his attorney will take the deposition upon oral examination of the **Keeper of Records of White Oak Manor (Benson Hall Assisted Living Facility)**, pursuant to the applicable provisions pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before a Notary Public in and for the Commonwealth of Massachusetts or before some other officer authorized to administer oaths.

You are further required to bring with you the documents listed on Schedule A attached hereto.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully Submitted,

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300

CERTIFICATE OF SERVICE

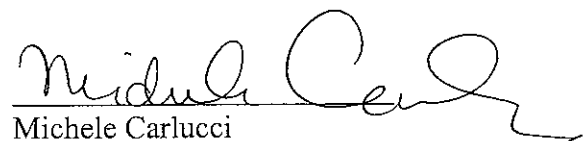
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Robert J. Roughsedge, Esq.
Michael Williams, Esq.
Lawson & Weitzen, LLP
88 Black Falcon Avenue, Suite 345
Boston, MA 02210-2414


Michele Carlucci

SCHEDULE A

Any and all medical records, reports, x-rays, films and billings relating in any way to physical, medical or mental condition, illness, disabilities and treatment of Helen Runge, 5 Stirrup Downs, Columbus, NC 28722, , date of birth: 8/03/15.

DEPOSITION SUBPOENA: DUCES TECUM

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

**CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS**

HELEN RUNGE, Plaintiff v. WALTER J. KELLY, KERRY L. BLOOMINGDALE, M.D., and SUNBRIDGE NURSING AND REHABILITATION CENTER, Defendants
--

TO: KEEPER OF THE RECORDS
Robert M. Palmer, M.D.
Tryon Medical Group, P.A.
25 Shields Drive
Tryon, NC 28782

GREETINGS:

YOU ARE HEREBY COMMANDED in the name of the United States District Court, Western District of North Carolina in accordance with the provisions of Rule 45 of the Federal Rules of Civil Procedure to appear and testify on behalf of defendants before a Notary Public of the Commonwealth, on **Wednesday, January 31, 2007 at 10:00 a.m.** at the offices of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, 155 Federal Street, Boston, MA 02110 and to testify as to your knowledge, at the taking of the deposition in the above-entitled action. The oral examination will continue from day to day until completed. And you are further required to bring with you the following: SEE NOTICE OF TAKING DEPOSITION ATTACHED HERETO.

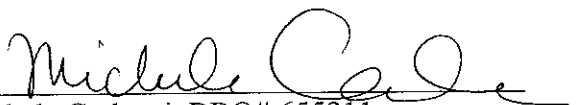
IN LIEU OF ATTENDING YOU MAY SEND COPIES OF RECORDS TO
**MICHELE CARLUCCI, WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER
LLP, 155 FEDERAL STREET, BOSTON, MA 02110.**


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Hereof fail not as you will answer your default under the pains and penalties
under the law as provided.

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSE, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300


Notary Public
My Commission Expires: 8/28/09

CERTIFICATION

The undersigned does depose and say under the penalties of perjury that I am an authorized custodian of records for _____ and that the enclosed _____ pages represent all documents called for in the attached subpoena, no records having been withheld. All such records were kept in the regular course of business.

Signed under the pains and penalties of perjury this ____ day of _____, 2006.

Signature

Print Name

Address

Telephone Number

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NUMBER: 05-10849 RGS
DISTRICT OF MASSACHUSETTS

HELEN RUNGE,

Plaintiff

v.

WALTER J. KELLY,
KERRY L. BLOOMINGDALE, M.D., and
SUNBRIDGE NURSING AND
REHABILITATION CENTER,

Defendants

NOTICE OF TAKING DEPOSITION

TO: KEEPER OF THE RECORDS
Robert M. Palmer, M.D.
Tryon Medical Group, P.A.
25 Shields Drive
Tryon, NC 28782

Please take notice that on **Wednesday, January 31, 2007 at 10:00 a.m.** at the offices of Michele Carlucci, Esquire, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, 155 Federal Street, Boston, Massachusetts, Walter J. Kelly, in this action by his attorney will take the deposition upon oral examination of the **Keeper of Records of Robert M. Palmer, M.D. at Tryon Medical Group, P.A.**, pursuant to the applicable provisions pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before a Notary Public in and for the Commonwealth of Massachusetts or before some other officer authorized to administer oaths.

You are further required to bring with you the documents listed on Schedule A attached hereto.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully Submitted,

WALTER J. KELLY
BY HIS ATTORNEY


Michele Carlucci, BBO# 655211
WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP
155 Federal Street
Boston, MA 02110
(617) 422-5300

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Michele Carlucci

SCHEDULE A

Any and all medical records, reports, x-rays, films and billings relating in any way to physical, medical or mental condition, illness, disabilities and treatment of Helen Runge, 5 Stirrup Downs, Columbus, NC 28722, , date of birth: 8/03/15.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HELEN A. RUNGE,	:	
Plaintiff	:	
	:	No. 05-10849-RGS
v.	:	(Judge Stearns)
	:	
WALTER J. KELLY, et al.	:	CIVIL ACTION
Defendants	:	JURY TRIAL DEMANDED

ORDER

AND NOW, this _____ day of _____, 2007,
upon consideration of Plaintiff's Motion for Protective Order, it is hereby ORDERED
and DECREED that said Motion is GRANTED.

BY THE COURT:

Richard C. Stearns, J.